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## More Questions and Answers

### How long does a mediation last?

A small claims mediation session usually lasts about 30 minutes to one hour. It can be shorter or last for a longer period of time.

### Is mediation expensive?

There is no separate fee for mediation. The fee for filing a small claims action includes the cost of mediating. Mediation may reduce your expenses or save time by helping you avoid a contested trial and possibly help you in collecting payment, if there is an agreement that money is owed.

### Do I need a lawyer?

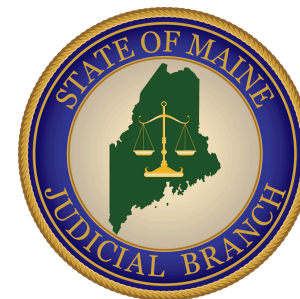
A lawyer is very helpful, especially if you do not know the laws that apply to your case. You are not required to have a lawyer. Even if you do not bring a lawyer with you, you may want to consult a lawyer before coming to court.

### What happens if we don't agree?

If you are unable to reach an agreement in mediation, you will have a trial before a judge, and a judge will decide your case. Mediation does not affect your right to a trial.



# Small Claims Mediation



State of Maine Judicial Branch

Office of Court ADR

**Court Alternative  
Dispute Resolution  
Service  
(CADRES)**

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## Why Try Mediation?

- ✚ On your court date, you may be required to try mediation if you are involved in a Small Claims case and both parties appear at court, and there is still a dispute.
- ✚ You may also request mediation on another day before your hearing.
- ✚ A neutral party called a mediator will assist you in trying to resolve your case.
- ✚ Mediation allows you to make choices about what you believe is in your best interest. You may find out that there are options you did not know about. You and the other party may come up with new options while in mediation.
- ✚ The mediator does not decide your case or make any recommendations to the judge. The mediator is there to help you talk about the issues that brought you to court.
- ✚ You and the other party make the decisions in mediation about settling your case. By trying mediation, you do not give up your right to a court hearing.
- ✚ You can make offers to compromise that are “off the record.” Mediation gives you a chance to see if you can reach agreement about how to settle your case. Any agreements reached in mediation are voluntary.

## What Happens in Mediation?

- ✚ At the start of mediation, the mediator will explain how mediation works and will answer any questions you might have.
- ✚ You may choose to mediate in a separate room from the other party if there is a good reason not to be in the same room. If either party has been ordered not to have contact with the other party (for example, due to a bail or protection order), be sure to tell the mediator. You will sit in separate rooms, and the mediator will go back and forth.
- ✚ The mediator will ask each of you to describe what happened and how you want to resolve your case.
- ✚ The mediator may ask to meet with you alone (with your lawyer if you have one), so you can talk more comfortably.
- ✚ Mediation is an informal process. You may take a break or talk to your lawyer or support person privately at any time.
- ✚ If you reach an agreement, the mediator will write up the terms of the settlement for you to sign. Later, you will present the agreement to the judge, who will review it. If the judge approves your agreement, it becomes a court order.
- ✚ If you do not reach agreement, the mediator will complete a form to tell the court that your case needs a trial. The judge will conduct a trial on the same day or on a different day.

## What are the Benefits of Mediation?

- ✚ You have a chance to present your ideas in an informal, private setting, with the support and advice of your lawyer if you have one. It is a time to be heard and to listen to others.
  - ✚ In mediation, you have an opportunity to make decisions and to control the outcome.
  - ✚ The mediator is impartial and is trained to help you and the other party discuss your dispute so that you can try to work things out yourselves.
  - ✚ Mediation may help you reach an agreement that will let you get on with your life and possibly keep you out of court in the future.
  - ✚ By discussing your options in mediation, you may discover choices you did not know you had.
  - ✚ Generally what you say in mediation cannot be used as evidence in court in the same case, and the mediator cannot testify (with some exceptions), according to Rules 408 and 514 of the Maine Rules of Evidence. However, if a mediator learns about child abuse or neglect, or that someone is in immediate danger of physical harm, the mediator will report that information to the authorities.
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